



Dental Hygiene Board of California Teleconference Meeting Minutes

Friday, May 29, 2020

Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-25-20, dated March 12, 2020, neither a public nor teleconference location was provided.

Members of the public observed and participated by using the link that was provided in the agenda.

DHBC Members Present:

President – Dr. Timothy Martinez
Vice President – Nicolette Moultrie, RDH
Secretary – Garry Shay, Public Member
Educator Member – Dr. Michelle Hurlbutt
RDHAP Member – Noel Kelsch
RDH Member – Evangeline Ward
Public Member – Susan Good

DHBC Members Absent:

Public Member – VACANT
Public Member – VACANT

DHBC Staff Present:

Anthony Lum, Executive Officer
Elizabeth Elias, Assistant Executive Officer
Traci Napper, Licensing Program Analyst
Adina Pineschi-Petty, Doctor of Dental Surgery (DDS), Educational, Legislative, and Regulatory Specialist
Daniel Rangel, Special Investigator
William Maguire, Department of Consumer Affairs (DCA) Legal Counsel for the DHBC
Danielle Rogers, DCA Regulatory Unit Legal Counsel for the DHBC

1. Roll Call and Establishment of a Quorum

Dr. Timothy Martinez, President of the Dental Hygiene Board of California (DHBC, Board), reviewed teleconference meeting guidelines and called the meeting to order at **10:05 a.m.** Secretary Garry Shay took roll call and a quorum was established with seven members present.

2. President’s Report (Informational Only)

Dr. Martinez thanked all in attendance for their patience and understanding regarding the Coronavirus (COVID-19) pandemic. Additionally, he thanked the DCA Director and DHBC executive officer and staff for continuing operations of the DHBC. Dr. Martinez acknowledged the difficulties the COVID-19 pandemic has had on dentistry, dental hygiene, and dental hygiene students.

Dr. Martinez introduced and welcomed Board Counsel William Maguire and Regulatory Counsel Danielle Rogers.

3. Public Comments for Items Not on the Agenda

Jasmine Del Toro commented on restrictions due to the pandemic in LA County.

Judy Yamamoto commented on the Board’s consideration of Western Regional Examining Board (WREB) requirements for current dental hygiene students.

No further comments.

4. Discussion and Possible Action to Approve the November 22, 2019 Full Board Meeting Minutes.

Noel Kelsch moved to approve the November 22, 2019 Full Board Meeting Minutes with amendments changing “motioned” to “moved”.

Second: Nicolette Moultrie.

Member discussion: None.

Public comment: None.

Vote: Motion to approve the November 22, 2019 Full Board Meeting Minutes with amendments changing “motioned” to “moved”. Passed 7:0:0.

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		

Name	Aye	Nay	Abstain
Garry Shay	X		
Evangeline Ward	X		

5. Discussion and Possible Action to Approve the November 22, 2019 Education Subcommittee Meeting Minutes.

Nicolette Moultrie moved to approve the November 22, 2019 Education Subcommittee Meeting Minutes with amendments changing “motioned” to “moved”.

Second: Noel Kelsch.

Member discussion: Garry Shay moved to make two amendments in the minutes where it states: “Garry Shay motioned” to “Garry Shay moved”.

Public comment: None.

No further corrections/comments.

Vote: Motion to approve the November 22, 2019 Education Subcommittee Meeting Minutes with amendments changing “motioned” to “moved”. Passed 7:0:0.

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

6. Discussion and Possible Action to Approve the November 22, 2019 Legislative and Regulatory Subcommittee Meeting Minutes.

Nicolette Moultrie moved to approve the November 22, 2019 Legislative and Regulatory Subcommittee Meeting Minutes with amendments changing “motioned” to “moved”.

Second: Evangeline Ward.

Member discussion: None

Public comment: None.

Vote: Motion to approve the November 22, 2019 Legislative and Regulatory Subcommittee Meeting Minutes with amendments changing “motioned” to “moved”. Passed 7:0:0.

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

7. Discussion and Possible Action to Approve the November 22, 2019 Licensing and Examination Subcommittee Meeting Minutes.

Nicolette Moultrie moved to approve the November 22, 2019 Licensing and Examination Subcommittee Meeting Minutes with amendments changing “motioned” to “moved”.

Second: Evangeline Ward.

Member discussion: None.

Public comment: None.

Vote: Motion to approve the November 22, 2019 Licensing and Examination Subcommittee Meeting Minutes with amendments changing “motioned” to “moved”. Passed 7:0:0.

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

8. Discussion and Possible Action to Approve the November 23, 2019 Full Board Meeting Minutes.

Nicolette Moultrie moved to approve the November 23, 2019 Full Board Meeting Minutes with amendments changing “motioned” to “moved”.

Second: Noel Kelsch.

Member discussion: None.

Public comment: None.

Vote: Motion to approve the November 23, 2019 Full Board Meeting Minutes with amendments changing “motioned” to “moved”. Passed 7:0:0.

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

9. Executive Officer’s Report (Informational Only)

Executive Officer (EO) Anthony Lum reported that the COVID-19 pandemic has posed challenges for the Board and staff has been flexible in adjusting their schedules as needed to keep the office staffed and available to the public while social distancing for safety. He acknowledged the Department of Consumer Affairs (DCA) Offices of Information Systems and Human Resources for seamless transition to telework for staff and allowing the DHBC staff to continue addressing Board business. He thanked staff's willingness to be flexible to keep the DHBC running.

EO Lum reported that due to the COVID-19 pandemic, staff has been working with DCA and acknowledged the DCA internet team for their assistance to disseminate important information and links to the public.

EO Lum thanked DCA Director Kimberly Kirchmeyer and her DCA Executive Team for their frequent communication and direction during this pandemic.

Budget Report: Board spending is closed for this fiscal year. The governor reported a \$54.3 billion deficit in the May revision of the State budget mainly caused by the pandemic. As a result, only essential and mission-critical expenses for the necessary operations of the Board will be expended in order to conserve DHBC funds. Effects on staff has yet to be determined, as discussions with labor unions is ongoing.

The Board's Fund condition is good and projected to be solid for another year. Discussions at that time will need to take place regarding maintenance of solvency of the DHBC's funds.

Personnel: The hiring process is continuing to fill the two of the three current staff vacancies.

Board: There are currently two Public Member vacancies and awaiting the Legislature to make its appointments.

The new DHBC Statute books were delayed due to COVID-19 but are under final review and proofing. It will be posted on the website in PDF format upon completion of proofing for anyone and at no charge. EO Lum thanked the DCA Office of Publication, Design, and Editing for their assistance.

Public comment: No comments received.

10. Status Update Regarding Dental Hygiene Board of California's Regulatory Packages (Informational Only).

Dr. Adina Pineschi-Petty reported that there are many regulatory packages in progress in various stages. Additionally, staff has been working on regulatory

changes in moving some pertinent dental hygiene regulatory authority from the Dental Board of California (DBC) to the DHBC.

Member discussion: Discussion took place regarding that the number of regulatory packages in process is unusual and an anomaly and that once these are complete the number of packages should decrease. Additionally, the length of the process has not increased significantly due to COVID-19 and the packages are progressing around the historic timeline.

Public comment: No comments received.

11. Discussion and Possible Action on the Following Proposed Regulatory Package: 16 California Code of Regulations (CCR) Sections 1135, 1136, and 1137 Substantial Relationship Criteria and Criteria for Evaluating Rehabilitation.

Dr. Adina Pineschi-Petty reported that effective July 1, 2020, Assembly Bill 2138 (Chapter 995, Statutes of 2018) will require boards to amend their existing regulations governing substantially-related crimes or acts, and rehabilitation criteria.

Dr. Petty reported that on March 2, 2020 and May 18, 2020, the Board received comments on the Board's proposed regulations implementing Assembly Bill (AB) 2138. Staff recommended to the Board to consider and possibly approve the responses drafted to address comments received on March 2, 2020 and May 18, 2020 on the Board's proposed regulations implementing AB 2138. Additionally, in response to changes in language that the Office of Administrative Law proposed to other boards, staff recommended to the Board to consider and possibly approve the amended proposed regulatory language relative to substantial relationship criteria and criteria for evaluating rehabilitation.

Motion: Nicolette Moultrie moved for the Board to approve the amended proposed regulatory language and proposed response to address comments received relative to 16 CCR Sections 1135, 1136, and 1137 substantial relationship criteria and criteria for evaluating rehabilitation, and in addition, direct staff to take all steps necessary to complete the rulemaking process, including sending out the modified text with these changes for an additional 15-day comment period. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulation, and adopt the proposed regulation as described in the modified text notice.

Second: Evangeline Ward.

Member discussion: Discussion took place regarding the additions to the proposed language in 16 CCR sections 1135, 1136, and 1137.

Public comment: None.

Vote: Motion for the Board to approve the amended proposed regulatory language relative to 16 CCR Sections 1135, 1136, and 1137 Substantial Relationship Criteria and Criteria for Evaluating Rehabilitation, and in addition, direct staff to take all steps necessary to complete the rulemaking process, including sending out the modified text with these changes for an additional 15-day comment period. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulation, and adopt the proposed regulation as described in the modified text notice. Passed 7:0:0.

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

Dr. Michelle Hurlbutt moved for the Board to approve the proposed response to address comments received relative to 16 CCR Sections 1135, 1136, and 1137 Substantial Relationship Criteria and Criteria for Evaluating Rehabilitation, and in addition, direct staff to take all steps necessary to complete the rulemaking process, including sending out the modified text with these changes for an additional 15-day comment period. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulation, and adopt the proposed regulation as described in the modified text notice.

Second: Garry Shay.

Member discussion: Discussion took place regarding the proposed response to address comments received relative to 16 CCR Sections 1135, 1136, and 1137.

Public comment: None.

Vote: Motion for the Board to approve the proposed response to address comments received relative to 16 CCR Sections 1135, 1136, and 1137 Substantial Relationship Criteria and Criteria for Evaluating Rehabilitation, and in addition, direct staff to take all steps necessary to complete the rulemaking

process, including sending out the modified text with these changes for an additional 15-day comment period. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulation, and adopt the proposed regulation as described in the modified text notice. Passed 7:0:0.

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

12. Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1103. Definitions.

Dr. Adina A. Pineschi-Petty reported that staff has continued with reviews of regulatory sections that may be considered by the Board for revision or clarification. Staff has reviewed 16 CCR section 1103 which provides definitions applicable to DHEPs and has proposed amendments to provide clarity to sections found within the regulation.

Staff recommended to the Board to approve the proposed amended language to clarify language found within 16 CCR section 1103 applicable to definitions for DHEPs, determine whether additional information or language is required, complete the draft of proposed regulatory language, and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to 16 CCR section 1103 as noticed.

Motion: Garry Shay moved to approve the proposed amended language to clarify language found within 16 CCR section 1103 applicable to definitions for DHEPs and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the

proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to 16 CCR section 1103 as noticed.

Second: Evangeline Ward.

Member discussion: Discussion took place regarding suggested amendments to 16 CCR section 1103 providing clarity to definitions applicable to DHEPs.

Public comment: Lisa Kamibayashi stated she preferred the definition of “clinical practice” to be clearer and to include simulation labs.

Tonette Steeb concurred with Dr. Hurlbutt that the amended definition of “clinical practice should omit “with patients” in the current position and replace with “patient” before “learning experiences to read: “(e) “Clinical practice” means the planned patient learning experiences ~~with patients~~ designed for students to apply dental hygiene knowledge and skills to meet course objectives in a variety of ~~Committee-~~ Dental Hygiene Board- approved clinical settings.”

Natalie Vanoli requested clarity on the Commission on Dental Accreditation (CODA) Standard 2-10 as she did not see simulation referenced within the standard.

No further comments.

Vote: Motion to approve the proposed amended language to clarify language found within 16 CCR section 1103 applicable to definitions for DHEPs and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to the California Code of Regulations (CCR), Title 16, Division 11 section 1103 as noticed. Passed 6:1:0.

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		

Name	Aye	Nay	Abstain
Timothy Martinez	X		
Nicolette Moultrie		X	
Garry Shay	X		
Evangeline Ward	X		

13. Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1104. Approval of New RDH Educational Programs and Continuation of Approval for Approved RDH Educational Programs.

Dr. Adina A. Pineschi-Petty reported that staff has continued with reviews of regulatory sections that may be considered by the Board for revision or clarification. Staff has reviewed section 16 CCR 1104 which provides regulations for approval of new DHEPs and for continuation of approval for approved DHEPs.

Staff recommended to the Board to approve the proposed amended language to clarify language found within 16 CCR section 1104 applicable to approval of new DHEPs and for continuation of approval for approved DHEPs and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any nonsubstantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to 16 CCR section 1104 as noticed.

Motion: Garry Shay moved to approve the proposed amended language to clarify language found within 16 CCR section 1104 applicable to approval of new DHEPs and for continuation of approval for approved DHEPs and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any nonsubstantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to 16 CCR section 1104 as noticed.

Second: Nicolette Moultrie.

Member discussion: None.

Public comment: None.

Vote: Motion to approve the proposed amended language to clarify language found within 16 CCR section 1104 applicable to approval of new DHEPs and for continuation of approval for approved DHEPs and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any nonsubstantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to 16 CCR section 1104 as noticed. Passed 7:0:0.

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

14. Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1104.3. Reviews, Site Visits, Cite and Fine, and Probationary Status for Dental Hygiene Educational Programs.

Dr. Adina A. Pineschi-Petty reported that at the November 23, 2019 Full Board meeting, the Board approved the proposed regulatory language to implement section 1941.5 of the BPC. However, during the rulemaking process, substantive changes were made to the Board-approved draft regulatory language for 16 CCR section 1104.3.

Staff recommended to the Board to approve the proposed amended language found within 16 CCR section 1104.3 and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any nonsubstantive changes to the proposed regulations before completing

the rulemaking process, and adopt the proposed text to 16 CCR section 1104 as noticed.

Motion: Garry Shay moved to approve the proposed amended language found within 16 CCR section 1104.3 and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any nonsubstantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to 16 CCR section 1104.3 as noticed.

Second: Dr. Michelle Hurlbutt.

Member discussion: Discussion took place regarding suggested amendments to 16 CCR section 1104.3 due to amendments during the rulemaking process.

Public comment: None.

Vote: Motion to approve the proposed amended language found within 16 CCR section 1104.3 and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any nonsubstantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to 16 CCR section 1104.3 as noticed. Passed 7:0:0.

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

15. Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1105.2. Required Curriculum.

DHBC legal counsel Danielle Rogers reported that at the November 23, 2019 Full Board meeting, the Board tabled addressing proposed regulatory package and related forms of 16 CCR §1105.2 Required Curriculum and requested to be placed on the agenda of the next scheduled Board meeting. The question that arose is whether the DHBC has jurisdiction to approve out-of-state Dental Hygiene Educational Programs (DHEPs) with regard to Periodontal Soft Tissue Curettage, Local Anesthesia, and Nitrous Oxide-Oxygen Sedation (SLN).

Ms. Rogers stated that in response to the public comment that was made at the prior meeting regarding the Board's authority to approve and oversee out-of-state dental hygiene programs or specifically, the SLN education and training, the intent in following the law is to ensure that the SLN education and training obtained in an out-of-state dental hygiene program is equivalent to or surpasses the SLN education and training students receive in California. She stated the Board does not have the authority or resources to oversee out-of-state educational programs; however, must create a method to be able to review and approve the education and training that is certified by the respective out-of-state program to be comparable to California's SLN education and training. This method of additional required documentation review will be used for both out-of-state dental hygiene educational programs that request Board approval and to individual out-of-state applicants whose educational programs have not requested Board SLN approval. SLN programs within California may be subject to additional oversight measures like site visits to check issues such as infection control as the Board does have direct authority over these programs.

Staff recommended to the Board to re-review the related forms, fees, and proposed language, determine whether additional information or language is required, complete the draft of proposed regulatory language, and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to 16 CCR section 1105.2 as noticed.

Motion: Susan Good moved to approve the related forms, fees, and proposed language and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse

comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to 16 CCR section 1105.2 as noticed.

Second: Evangeline Ward.

Member discussion: Discussion took place regarding suggested amendments to 16 CCR section 1105.2.

Public comment: Vickie Kimbrough stated that although the Board does not have purview over out-of-state programs, she questioned the tracking methods and oversight the Board will utilize to monitor out-of-state courses in SLN.

Vote: Motion to approve the related forms, fees, and proposed language and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to 16 CCR section 1105.2 as noticed. Passed 7:0:0.

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

16. Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1115. Retired Licensure.

Dr. Adina Pineschi-Petty reported that at the January 29, 2019 Full Board Teleconference, the Board approved proposed language relative to the implementation of retired licensure for RDHs, RDHAPs, and RDHEFs, and directed staff to take all steps necessary to initiate the formal rulemaking process.

She stated that In response to comments made from the review by the Department of Consumer Affairs (DCA), staff recommends to the Board to re-review the proposed language in the attached document, determine whether additional information or language is required, complete the draft of proposed regulatory language, and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to the California Code of Regulations (CCR), Title 16, Division 11 section 1115.

Motion: Susan Good moved to approve the proposed amended regulatory language, and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to the California Code of Regulations (CCR), Title 16, Division 11 section 1115.

Second: Noel Kelsch.

Member discussion: None.

Public comment: None.

Vote: Motion to approve the proposed amended regulatory language, and direct staff to take all steps necessary to initiate the formal rulemaking process, including noticing the proposed language for 45-day public comment, setting the proposed language for a public hearing, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package. If after the close of the 45-day public comment period and public regulatory hearing, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed text to the California Code of Regulations (CCR), Title 16, Division 11 section 1115. Passed 7:0:0.

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

17. Discussion and Possible Action on the Following Proposed Regulatory Package: 16 CCR Section 1116. Mobile Dental Hygiene Clinic Fee Resolutions.

Dr. Adina Pineschi-Petty reported that 16 CCR section 1116 was placed on hold in the regulatory process due to lack of statutory authority for inspections of the mobile dental hygiene clinics and that the DHBC will seek legislation for that authority. However, on August 6, 2019, the Board established by resolution the fee for initial MDHC permits at \$100 and the fee for biennial MDHC permit renewals at \$150 each to cover application processing and permit issuance. It has been brought to staff's attention by the Budget Office that the initial fees established were insufficient to cover the cost expenditure for issuance of MDHC initial and renewal permits.

Dr. Pineschi-Petty stated that in order to allow 16 CCR section 1116 to move forward in the regulatory process once the authority for inspections is granted, the fees must be established by resolution for MDHC initial permits at \$150 and biennial MDHC permit renewals at \$250 to cover application processing and permit issuance.

Motion: Dr. Michelle Hurlbutt moved to establish by resolution MDHC initial permits fees at \$150 and biennial MDHC permit renewal fees at \$250 to cover application processing and permit issuance.

Second: Evangeline Ward.

Member discussion: None.

Public comment: None.

Vote: Motion to establish by resolution MDHC initial permits fees at \$150 and biennial MDHC permit renewal fees at \$250 to cover application processing and permit issuance. Passed 7:0:0.

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

18. Discussion and Possible Action on the Following Proposed 1 CCR Section 100 Package: Business and Professions Code (BPC) Section 901.

DHBC legal counsel Danielle Rogers reported that the underlying statutory authority for sections 1149, 1150, 1151, 1152, and 1153 [collectively, Article 13 of Division 11 of Title 16 of the California Code of Regulations (CCR)], which was formerly Business and Professions Code (BPC) section 901, has been repealed by Assembly Bill 512 (Chapter 111, Statutes of 2013, section 1), operative January 1, 2018. Subdivision (l) of section 901 extended a previous sunset date from 2014 to 2018, but there have been no further extensions [(l)This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date]. As such, these regulatory sections must be repealed pursuant to Article 2 of Division 1 of Title 1, section 100, subdivision (a)(2) of the CCR).

Ms. Rogers stated that staff recommends to the Board to approve the Section 100 change request and direct staff to take all steps necessary to initiate the rulemaking process and authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process.

Motion: Nicolette Moultrie moved for the Board to approve the Section 100 change request and direct staff to take all steps necessary to initiate the rulemaking process and authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process.

Second: Noel Kelsch.

Member discussion: Discussion took place regarding 1 CCR section 100 package BPC Section 901.

Public comment: None.

**Vote: Motion for the Board to approve the Section 100 change request and direct staff to take all steps necessary to initiate the rulemaking process and authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process.
Passed 7:0:0.**

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

19. Discussion and Possible Action on Temporary Modification for WREB Clinical Examination to a Written Format and Request for the DCA Office of Professional Examination Services (OPES) to Review.

Executive Officer Anthony Lum reported that the Board has been receiving numerous inquiries regarding possible clinical exam options, particularly from the Class of 2020, for the completion of licensing requirements due to the Coronavirus (COVID-19) pandemic. The clinical exams nationwide have been suspended or rescheduled for a later date due to the pandemic. As the dental hygiene clinical exam involves close in-person contact to treat patients as part of the requirements for the clinical exam, concerns have arisen as to the feasibility of administering this type of exam during the pandemic. By law, the Board cannot waive licensure requirements unless a mandate, provision or waiver is approved by the administration. On April 21, 2020, The Western Regional Examining Board (WREB) sent information to the Board regarding a Dental Hygiene Objective Structured Clinical Examination (OSCE) as an alternative to the traditional patient-based exam for temporary consideration by the Board.

Staff requests the Board to review and discuss WREB’s OSCE clinical examination option to temporarily change from a patient-based, in-person clinical exam to a written exam for all applicants to complete licensure requirements due to the pandemic. If approved, the change in format would be temporary with a finite date, unless extended. Staff also recommends for the DCA Office of Professional Examination Services (OPES) to review the proposed examination for compliance with Business and Professions Code section 139 to protect the Board. This section of the code addresses compliance with the Board’s laws to ensure examination

validation and that it's psychometrically sound as a replacement for the current patient-based clinical examination.

WREB representative Kelly Reich presented that WREB has been working on the OSCE to allow testing but only as a temporary measure, ensuring that the OSCE is psychometrically sound. Ms. Reich discussed the process as to the approval of the OSCE, content of the OSCE, and as to procedures that will be in place for administration of the OSCE.

OPES representative Tracy Montez presented that OPES has been working with DCA programs regarding adjustments to board-accepted exams, as the OSCE is not measuring the same skills as the accepted regulatory exam. She encouraged the Board to pause, research, allow the OPES to review, and determine if the proposed exam is in the best interest of consumer protection prior to accepting them for licensure.

Motion: Garry Shay moved for the Board to direct the Executive Officer to work with the DCA OPES to request expedited review of the WREB OSCE and other alternative non patient-based format dental hygiene exams for consideration by the Board at the next scheduled meeting.

Second: Susan Good.

Member discussion: Discussion took place regarding the temporary modification for the WREB Clinical Examination to be conducted as a written format and regarding the request for the DCA OPES to review the exam to be psychometrically sound.

Public comment: Many public comments were received from dental hygiene students and faculty in support of the Board approving alternative testing options to move the RDH licensing process forward.

There was a comment from a public member in opposition of changing licensing requirements as she did not feel the current dental hygiene class is competent and that it would not be in the interest of consumer protection and requested the Board to investigate all dental hygiene educational programs.

Vote: Motion for the Board to direct the Executive Officer to work with the DCA OPES to request expedited review of the WREB OSCE and other alternative non patient-based format dental hygiene exams for consideration by the Board at the next scheduled meeting. Passed 7:0:0.

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		

Name	Aye	Nay	Abstain
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

20. Discussion and Possible Action on Dental Hygiene Educational Program Completion Requirements During the COVID-19 Pandemic.

Executive Officer Lum reported that he’s been receiving numerous inquiries from both dental hygiene educational programs (DHEP) and students regarding program completion requirements due to campus closures of clinical facilities and alternate educational delivery methods during the Coronavirus (COVID-19) pandemic. He stated that this is a unique and unprecedented situation, as the curriculum involves close, in-person clinical contact as a main part of the requirements for DHEPs by the Board and Commission on Dental Accreditation (CODA) which is the exact opposite of the administration’s social distancing order to inhibit the spread of the virus.

Executive Officer Lum stated that on April 14, 2020, CODA issued a notification on “Additional Post-CODA Meeting Guidance on Interruption of Education Related to COVID-19 for the Class of 2020”. In the correspondence, CODA provides a link to a temporary flexibility guidance document for the use of dental hygiene educational programs (“Guidance Document: Temporary Flexibility in Accreditation Standards to Address Interruption of Education Reporting Requirements Resulting From COVID-19 for the Class of 2020”). He stated that if the DHEPs choose to apply the discipline-specific temporary flexibility guidance provided by CODA because the school determines a student’s competency, that each DHEP has the obligation and responsibility to ensure that the revised assessment and evaluation of students utilizing the temporary flexible standards ensures that those standards do not compromise educational objectives, including clinical education and training, and that each student is competent prior to graduating from the program. Additionally, he stated that CODA recognized and reminded DHEPs that there may be licensure or other credentialing implications as a result of the program’s temporary curricular modifications, which must be considered by the DHEP and educational institution and outside of CODA’s purview.

Executive Officer Lum stated that in the CCR there are three specific educational requirements (16 CCR section 1105, subdivisions (b)(3) and (f)(1)(C), and 16 CCR section 1107), that have been brought to the Board’s attention which may pose difficulty with flexibility guidelines. As the Board’s laws do not provide any provision for temporary modification without authorization, the Board must take these specific regulations into consideration when considering alternatives to DHEP completion

requirements in the interest of consumer protection. He stated the Board assembled an education taskforce consisting of several DHEP Directors which met on May 21, 2020 to provide ideas and information for Board consideration and thanked the individual members of the taskforce for their participation.

Executive Officer Lum requested the Board to discuss and consider possible solutions for students deficient in clinical education or practice hours for the DHEP to deem them “competent” for graduation. This could be extra clinical hours when appropriate or online term for students to complete the required competencies and make up the deficient hours or other suggested solution. He also asked the Board to consider temporary programmatic changes as suggested by the Education Taskforce for DHEPs affected by the COVID-19 pandemic as changes could provide temporary flexibility without compromising consumer protection. Executive Officer Lum reported that if the Board determines it is necessary to accept modifications in DHEPs due to the pandemic, that the DHBC may request a waiver from the DCA for temporary acceptance of the modifications.

Motion: Nicolette Moultrie moved for the Board to direct the Executive Officer to submit a request for a temporary waiver for requirements in found in 16 section 1105, subdivision (f)(1)(C) from DCA through June 2021 or earlier if all schools have returned to their wet-lab course instruction as defined by regulation.

Second: Dr. Michelle Hurlbutt.

Member discussion: None

Public comment: Lisa Kamibayashi voiced support of the waiver and requested a consideration of division of local anesthesia and nitrous oxide-oxygen analgesia requirements so students that have completed requirements of each are approved separately and do not have to wait until all requirements are complete.

Vote: Motion for the Board to direct the Executive Officer to submit a request for a temporary waiver for requirements found in 16 CCR section 1105, subdivision (f)(1)(C) from DCA through June 2021 or earlier if all schools have returned to their wet-lab course instruction as defined by regulation. Passed 7:0:0.

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		

Name	Aye	Nay	Abstain
Garry Shay	X		
Evangeline Ward	X		

21. Discussion and Possible Action on the Commission on Dental Accreditation (CODA) Proposed Accreditation Standards for Dental Hygiene Educational Programs.

Dr. Adina Pineschi-Petty reported the Commission on Dental Accreditation (CODA) has proposed new Accreditation Standards for Dental Hygiene Educational Programs. Communities of interest may submit written comments to CODA on the proposed standards revisions until the comment due date of December 1, 2020. She reviewed the proposed CODA revisions in the meeting materials and requested the Board to discuss the proposed revisions and to direct staff to write a letter of concern to CODA regarding the proposed changes to the CODA Standards that the Board determines is unclear and recommends CODA to review.

Motion: Garry Shay moved to direct staff to submit written comments to CODA regarding the proposed changes to the CODA Standards that the Board determined are unclear and recommend to CODA to review.

Second: Evangeline Ward.

Member discussion: Discussion took place regarding proposed revisions to CODA accreditation standards for dental hygiene educational programs.

Public comment: None.

Vote: Motion to direct staff to submit written comments to CODA regarding the proposed changes to the CODA Standards that the Board determined are unclear and recommend to CODA to review. Passed 7:0:0.

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		

Name	Aye	Nay	Abstain
Evangeline Ward	X		

22. Discussion and Possible Action on Proposed California Northstate University Registered Dental Hygienist in Alternative Practice (RDHAP) Program Application.

Executive Officer Lum reported that on April 16, 2020, Dr. Paul Glassman from California Northstate University submitted an application for approval of a Registered Dental Hygienist in Alternative Practice (RDHAP) Educational Program. He stated that staff has reviewed the application for compliance with California Code of Regulations (CCR) Title 16, sections 1073.2 and 1073.3 and has found the application complete.

EO Lum stated that staff recommends to the Board to review the proposal from California Northstate University for a new RDHAP Program and determine approval status.

Motion: Nicolette Moultrie moved to approve the application for a new RDHAP Program at California Northstate University.

Second: Dr. Timothy Martinez

Member discussion: Discussion took place regarding the application for a new RDHAP Program at California Northstate University.

Public comment: None.

Vote: Motion to approve the application for a new RDHAP Program at California Northstate University. Passed 7:0:0.

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

23. Discussion and Possible Action on the Following Legislation:

- **Assembly Bills (AB) 62, 71, 193, 312, 316, 544, 613, 768, 1263, 1271, 1616, 1911, 1928, 1998, 2028, 2113, 2130, 2185, 2214, 2411, 2549, 2631, 2704, and 3045.**
- **Senate Bills (SB) 53, 66, 144, 154, 653, 776, 878, 1168, 1324, and 1474.**

Dr. Adina Pineschi-Petty reported the status of current legislation of interest to the DHBC. The Board took the following positions on current legislation as follows:

Legislation	DHBC Position
AB 613 (Low)	Watch
AB 1263 (Low)	Support
AB 1616 (Low)	Watch
AB 1911 (Maienschein)	Watch
AB 1928 (Kiley)	Support
AB 1998 (Low)	Watch
AB 2028 (Aguiar-Curry)	Oppose
AB 2113 (Low)	Oppose
AB 2130 (Arambula)	Watch
AB 2185 (Patterson)	Support with Amendments
AB 2214 (Carrillo)	Oppose unless Amended
AB 2411 (Nazarian)	Support
AB 2549 (Salas)	Support with Amendments
AB 2631 (Cunningham)	Support
AB 2704 (Ting)	Oppose
AB 3045 (Gray)	Support with Amendments
SB 53(Wilk)	Watch
SB 66 (Atkins McGuire)	Support as written as of 4-12-19
SB 144 (Mitchell and Hertzberg)	Watch
SB 653 (Chang)	Support with Concerns as written as of 5-29-20
SB 776 (Skinner)	Oppose
SB 878 (Jones)	Support
SB 1168 (Morrell)	Watch
SB 1324 (Allen)	Watch
SB 1474 (Glazier et al.)	Support

Motion: Dr. Michelle Hurlbutt moved to approve staff recommendations regarding positions on legislation presented.

Second: Dr. Timothy Martinez.

Member discussion: Discussion took place regarding Board positions on current legislation of concern to the Board.

Public comment: None.

Vote: Motion to approve staff recommendations regarding positions on legislation presented. Passed 7:0:0.

Name	Aye	Nay	Abstain
Susan Good	X		
Michelle Hurlbutt	X		
Noel Kelsch	X		
Timothy Martinez	X		
Nicolette Moultrie	X		
Garry Shay	X		
Evangeline Ward	X		

24. Dental Hygiene Educational Program Site Visit Update and Schedule (Informational Only).

Dr. Adina Pineschi-Petty reported that due to the COVID-19 pandemic that CODA has delayed all DHEP site visits and due dates for DHEPs to submit their self-studies. As that has occurred, staff has cancelled the five scheduled DHBC site visits until the DHEPs are notified as to their deadline for submitting their self-studies.

Dr. Pineschi-Petty reported on the results and current status of seven previously conducted DHBC site visits.

Member discussion: Discussion took place regarding the current status of reported DHEPs and site visit processes.

Public comment: None.

25. Licensing and Examination Statistics Update (Informational Only).

Traci Napper, DHBC Licensing Program Analyst, presented current licensure and examination statistics.

Member discussion: Discussion took place regarding current reported licensing and examination data.

Public comment: None

26. Enforcement Statistics Update (Informational Only).

Daniel Rangel, DHBC Special Investigator, presented current DHBC enforcement statistics.

Member discussion: Discussion took place regarding current reported enforcement statistics and procedures during probation monitoring.

Public comments: None

27. Public Comment for Items Not on the Agenda

Lisa Kamibayashi requested the Board to consider temporary RDH licenses for California students and separating SLN certification.

“Allison” thanked the Board for utilizing WebEx and encouraged the Board to continue utilizing the WebEx format as a cost saving measure and to increase public participation.

“Patricia” expressed concern for patient safety during the COVID-19 pandemic and requested the Board to encourage dental personnel to follow CDC guidelines regarding COVID-19 procedures to encourage safety in dental and dental hygiene practices.

28. Future Agenda Items

1. Research requesting a member of the DHBC to be placed on the WREB Board.
2. Discuss adding a requirement for a feasibility study to be added to RDHAP program applications.

29. Adjournment

Meeting was adjourned at **5:58 p.m.**